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January 7, 2013

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Planning and Development Services  
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San Diego, CA 92123

**Subject: Comments on the Notice of Preparation for Soitec Solar Projects, Draft Program Environmental Impact Report (Terra Del Sol, Rugged, LanEast and LanWest) Concentrated Photovoltaic Solar Electricity Generation Facilities 3800 12-010 (GPA), Log No. 3910-120005 (ER); Tierra Del Sol, 3300 12-010 (MUP), 3600 12-005 (REZ), 3921 77-046-01 (AP); Rugged Solar, 3300 12-007 (MUP); LanWest 3300 12-002 (MUP), San Diego County (SCH# 2012121018).**

Dear Ms. Hingtgen:

California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) prepared by the County of San Diego Planning and Department Services (Lead Agency) for the proposed construction of four (detailed below) solar concentrated photovoltaic (CPV) facilities by Soitec Solar Development, LLC. The projects are proposed for construction as four sites, collectively referred to as the Proposed Project. Two solar Projects (Tierra Del Sol and Rugged) will be evaluated at the project level within the Draft Program Environmental Impact Report (DPEIR) while LanEast and LanWest will be evaluated at a programmatic level due to insufficient project level information. The Proposed Project collectively would cover approximately 1,473 acres of land and generate 168 megawatts (MW) of electricity.

Project 1: 60-MW Tierra Del Sol Solar Farm located on 420 acres south of Interstate 8 within private lands adjacent to the United States/Mexico Border in eastern San Diego County (APNs: 658-090-31-00, 658-090-54-00, 658-090-55-00, 658-120-03-00 and 658-120-02-00). Tierra Del Sol Solar Farm is proposed in two phases (phase 1, 45 MW on approximately 330 acres and phase 2, 15 MW on approximately 90 acres). Tierra Del Sol Solar Farm includes a 1,000 volt direct current (DC) underground collection system connecting the CPV to the 3-acre on-site substation, a 4-acre Operations and Maintenance (O&M) site and a 138 kV overhead transmission (gen-tie) Interconnection to San Diego Gas & Electric's (SDG&E) Boulevard Substation.

Project 2: 80-MW Rugged Solar Farm located on approximately 765 acres north of Interstate 8 in the vicinity of Ribbonwood Road and McCain Valley Road (APNs: 611-060-04-00, 611-090-02-00, 611-090-04-00, 611-091-03-00, 611-091-07-00, 611-100-01-00, 611-100-02-00, 612-030-01-00, 612-030-19-00 and 611-110-01-00). Rugged Solar Farm includes a 1,000 volt DC underground collection system connecting the CPV to the 2-acre on-site substation, a 7,500 square-foot O&M site and a 69 kV overhead transmission (gen-tie) Interconnection to SDG&E Boulevard Substation.

Project 3: 22 MW LanEast Solar Farm located on approximately 233 acres bordered by Interstate 8 to the north and Old Highway 80 to the south, with McCain Valley road bisecting the Project site. LanEast Solar Farm includes a collector substation, an O&M building, and an over-head gen-tie connection to SDG&E's Boulevard Substation.

Project 4: 6.5 MW LanWest Solar Farm is located on 55 acres immediately west of the LanEast Solar Farm. LanWest Solar Farm includes power inverter and transformer units, and a dedicated 12.5kV distribution line connection with SDG&E's Boulevard Substation.

**CDFW Jurisdiction:** The following statements and comments have been prepared pursuant to CDFW's authority as Trustee Agency with jurisdiction over natural resources affected by the project (California Environmental Quality Act [CEQA] Guidelines § 15386) and as a Responsible Agency under CEQA Guidelines section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (CESA – Chapter 1.5 of the Fish and Game Code), and/or Lake and Streambed Alteration Agreement (LSAA) (Fish and Game Code §§ 2050 *et seq.*). CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized "take" of birds. Sections of the Fish and Game Code that protect birds, their eggs and nests include sections 3503 (regarding unlawful "take," possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the "take," possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful "take" of any migratory nongame bird). The CDFW also administers the Natural Community Conservation Plan Act (NCCPA) Fish and Game Code section 2800 *et seq.*

#### **Specific Comments:**

**Gen-tie Alignment:** The NOP does not provide specific details for the gen-tie lines and their potential impacts. CDFW recommends the DPEIR include the location and alignment of the gen-tie lines. In addition, the DPEIR should specify the number, height, design, and locations of any transmission poles, other means of conveyance to fully disclose the extent of impacts from the proposed projects.

**Biological Resources:** The Initial Study (IS) identifies project related, potentially significant impacts to all five parameters of the IS Biological checklist. Although details of the potentially significant impacts are not provided within the NOP, a Biological Resource Report is pending. Absent specific scoping criteria within the IS, CDFW is limited in its ability to provide meaningful scoping guidance on the PEIR. CDFW recommends a thorough discussion (including potential impacts analysis) of the flora, fauna, habitats, natural communities, jurisdictional waters, and wildlife movement corridors (terrestrial and avian) within the DPEIR. CDFW offers the following areas of emphasis as an incomplete list of topics for evaluation within the DPEIR.

**Raptor and passerine species:** Various raptor and passerine species are known to nest and forage within the vicinity of the Proposed Project. The Proposed Project may also fall within important bird migratory areas. Construction activities may significantly overlap the migratory bird nesting season. CDFW recommends the Lead Agency analyze the project's potential impacts to breeding and migratory birds and raptors, and include the analysis and proposed mitigation measures in the DPEIR. CDFW recommends completing surveys for raptor and passerine species and analyzing the Proposed Project's potential impacts to avian species and

their prey base prior to the circulation of the DPEIR. CDFW is available for consultation on appropriate avoidance, minimization and habitat compensation measures.

*Bat Species:* Without additional information it appears the Proposed Project has the potential to impact bat species, roosts, flight paths and forage opportunities. The Proposed Project may be sited within areas of relatively open grasslands with standing waters potentially providing a prey source for foraging opportunities. CDFW recommends identifying the potential to impact bat species early on in order to effectively coordinate and incorporate long-term bat studies within the DPEIR.

*Terrestrial Species:* Given the broad scope of the Proposed Project, CDFW recommends the DPEIR evaluate a wide range of terrestrial species including large and small mammals, sensitive reptile species and amphibians. Without a general assessment of the on-site biological resources, CDFW could only make broad species assumptions based on preliminary and incomplete project knowledge; consequently, CDFW cannot provide specific comments on terrestrial species and other biological considerations until more is known about the Proposed Project. CDFW will provide specific comments once we receive a complete project description.

*Botanical surveys:* CDFW recommends the Lead Agency require botanical surveys consistent with CDFW's guidance document for botanical surveys - *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* ([http://www.wildlife.ca.gov/biogeodata/cnddb/pdfs/Protocols\\_for\\_Surveying\\_and\\_Evaluating\\_Impacts.pdf](http://www.wildlife.ca.gov/biogeodata/cnddb/pdfs/Protocols_for_Surveying_and_Evaluating_Impacts.pdf) [Protocols]). These protocols facilitate a consistent and systematic approach to the survey and assessment of botanical resources. The protocols include methods for detection and assessment of special status native plants and natural communities. Following these protocols ensures that accurate information is collected and the potential for detecting special status plant species or natural communities is maximized.

To allow the Lead Agency to fully disclose to the public and CDFW the scope and magnitude of impacts to biological resources we recommend the Lead Agency require the applicant conduct focused surveys for sensitive species prior to the circulation of the PEIR. We recommend the results from these surveys be submitted to the Lead Agency and CDFW for review and consultation before preparation of the final PEIR. CDFW is available to assist the Lead Agency in evaluating survey results, assessing potential impacts, and developing effective mitigation for the species.

*California Endangered Species Act:* The NOP identifies the potential Proposed Project requirement for Section 7 consultation or a Section 10(a) permitting. The DPEIR should also identify that CESA prohibits the take of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species. However, CDFW may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), are met. (See also Cal. Code Regs., tit. 14, § 783.4.). CDFW considers impacts to endangered, threatened and candidate species significant absent appropriate mitigation.

*Impact to Streams:* The NOP identifies a "Streambed Alteration Agreement" (LSAA) with CDFW as a requirement for the Proposed Project. CDFW has regulatory authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed. For any such activities, the project applicant (or "entity") must provide written

notification to CDFW pursuant to section 1600 et seq. of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a LSAA with the applicant is warranted prior to conducting the proposed activities.

CDFW's issuance of a LSAA for the Proposed Project would require CEQA compliance by CDFW as a Responsible Agency. CDFW as a responsible agency under CEQA may consider the Lead Agency's DPEIR for the project. To minimize additional requirements by CDFW pursuant to Section 1600 et seq. and/or under CEQA, fully identify in the document the potential impacts to the stream or riparian resources and propose adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSAA.

CDFW may have jurisdiction over episodic streams, including alluvial fan streams even where flow occurs as sheetflooding. The paper, *Review of Stream Processes and Forms in Dryland Watersheds*, published by CDFW (Vyverberg, 2010), discusses the alluvial process and the significance to water resources. CDFW recommends the Lead Agency require a jurisdictional delineation be completed by a hydrogeomorphologist familiar with assessments in dryland watersheds to complete a delineation of the creeks to be included in the DPEIR. Conduct the delineation pursuant to the U. S. Fish and Wildlife Service (Service) wetland definition adopted by CDFW<sup>1</sup>. Please note that some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers.

**Cumulative Impacts:** CDFW recommends that the DPEIR include a cumulative impacts analysis that analyzes the proposed project's impacts along with the impacts of other renewable energy projects in the vicinity of the Proposed Project and the potential for those impacts to affect natural resources beyond the immediate physical and temporal scope of the Proposed Project.

In addition to the Proposed Project, CDFW is aware of several existing and proposed utility-scale renewable energy projects including solar and wind energy farms within the Proposed Project area. CDFW recommends including in the DPEIR an analysis of all constructed, proposed and reasonably foreseeable future renewable energy projects (with like impacts) relative to the interactions between these projects as a cumulative renewable energy landscape and their affects on the natural communities, flora, terrestrial species, avian species, hydrological resources, wildlife corridors and flyways within the Proposed Project Area..

**Draft East County MSCP:** A Planning Agreement for the North and East County Multiple Species Conservation Program (MSCP) Plans was executed between the County of San Diego, CDFW, and the Service on November 18, 2008. The Planning Agreement guides the planning and preparation of the MSCP plans including, among other criteria, defining the parties' goals and commitments, defining the scope of the conservation planning areas and establishing an interim review process intended to meet the preliminary conservation objectives and preserve options.

The Proposed Project appears to be located within an East County MSCP Focused Conservation Area. CDFW recommends that the Proposed Project's DPEIR include a discussion regarding Proposed Project's compliance with the guidance provided in the Planning

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<sup>1</sup> Cowardin, Lewis M., et al. 1979. Classification of Wetlands and Deepwater Habitats of the United States. U.S. Department of the Interior, Fish and Wildlife Service.

Agreement's Interim Review Process to ensure successful implementation of the Proposed Project and MSCP plans.

**General Comments:**

1. Because the NOP did not include sufficient information for us to assess the Proposed Project's potential impacts to biological resources CDFW recommends the following information be included in the DPEIR.
  - a) A complete discussion of the purpose and need for, and description of, the Proposed Project, including all staging areas and access routes to the construction and staging areas.
  - b) Include a range of feasible alternatives to ensure that alternatives to the proposed project are fully considered and evaluated. Include alternatives that avoid or otherwise minimize impacts to sensitive biological resources and consider alternative project locations in areas of lower resource value

**Biological Resources within the Proposed Project's Area of Potential Effect**

2. CDFW Pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515: except as provided in the Fish and Game Code (e.g., for necessary scientific research, NCCPA), take of any fully protected species is prohibited, and cannot be authorized by CDFW.
3. CDFW considers adverse impacts to a species protected by the CESA, for the purposes of CEQA, to be significant without mitigation. As to CESA, take of any endangered, threatened, or candidate species that results from the project is prohibited, except as authorized by state law (Fish and Game Code, §§ 2080, 2085.) Because Proposed Project construction, operation, decommissioning or other project-related activities may result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends that the project proponent seek appropriate take authorization under CESA prior to implementing the project. Appropriate authorization from CDFW may include an incidental take permit or a consistency determination in certain circumstances, among other options (Fish and Game Code §§ 2080.1, 2081, subds. (b), (c)). Early consultation is encouraged, as significant modification to a project and mitigation measures may be required in order to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of a 2081 permit unless the project CEQA document addresses all project impacts to CESA-listed species. .

**Biological Resources Baseline**

4. To provide a complete assessment of the flora and fauna within and adjacent to the Proposed Project area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and sensitive habitats. We recommend the draft EIR include the following information.
  - a) Per CEQA Guidelines, Section 15125(c), information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis placed on resources that are rare or unique to the region.

- b) A thorough assessment of rare plants and rare natural communities, following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (see: <http://www.wildlife.ca.gov/habcon/plant/>) (hard copy available on request).
- c) A current inventory of the biological resources associated with each habitat type on site and within the Proposed Project area. CDFW's California Natural Diversity Data Base in Sacramento should be contacted at (916) 322-2493 or [www.wildlife.ca.gov/biogeodata/](http://www.wildlife.ca.gov/biogeodata/) to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code.
- d) An inventory of rare, threatened, endangered, and other sensitive species on site and within the Proposed Project area. Include all species which meet the CEQA definition of endangered, rare or threatened (see CEQA Guidelines, §15380) including sensitive fish, wildlife, reptile, and amphibian species. We recommend that seasonal variations in use of the Proposed Project area also be addressed. Focused species-specific surveys, conducted per acceptable CDFW/Service protocols are required. If species specific protocols are not available, we recommend protocols be developed in consultation with CDFW and/or the Service.

#### Analyses of Potential Project-Related Impacts on Biological Resources

- 5. CDFW recommends the DEIR include thorough discussions of potential direct, indirect, and cumulative impacts to biological resources (with specific mitigation measures to reduce potential impacts to levels less than significant) including:
  - a) Direct Proposed Project related impacts associated with increased lighting, noise, human activity, changes in drainage patterns, changes in water volume, velocity, and quality, soil erosion, and /or sedimentation in streams and water courses on or near the Proposed Project site.
  - b) Indirect project impacts on biological resources, including resources on nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with a Natural Community Conservation Plan). Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas.
  - c) Potential adverse impacts from lighting, noise, human activity, exotic species, and drainage. With respect to drainage address: project-related changes to drainage patterns on and downstream of the project site; the volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the project site. We also recommend addressing the proximity of the extraction activities to the water table, whether dewatering would be necessary, and the potential resulting impacts on the habitat supported by the groundwater.

- d) The potential wildlife-human conflicts caused by zoning of areas for development projects or other uses that are nearby or adjacent to natural areas and how these conflicts could be mitigated

Mitigation for the Project-related Biological Impacts:

CDFW recommends that the Lead Agency develop the following mitigation measures:

6. Measures to fully avoid and otherwise protect Rare Natural Communities from project-related impacts. CDFW considers these communities as threatened habitats having both regional and local significance.
7. Measures for adverse Proposed Project-related impacts to sensitive plants, animals, and habitats. Place emphasis on avoidance and reduction of impacts. For unavoidable impacts, discuss on-site habitat restoration or enhancement in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore would not adequately mitigate the loss of biological functions and values, discuss off-site mitigation through habitat creation and/or acquisition and management in perpetuity.
8. Develop a habitat management plan (HMP) for proposed resource/lands preservation and/or restoration. The HMP should include measures to protect the targeted habitat functions from direct and indirect adverse impacts in perpetuity. Include restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, increased human intrusion, etc. CDFW is available to assist in the development of HMPs.
9. Require that clearing of vegetation and construction occur outside of the peak avian breeding season which generally runs from February 1 through September 1 (as early as January for some raptors). If project construction (not vegetation removal) is necessary during the bird breeding season a qualified biologist with experience in conducting breeding bird surveys conduct weekly bird surveys for nesting birds, within three days prior to the work in the area, and ensure no nesting birds in the project area would be impacted by the project. If an active nest is identified, establish a buffer between the construction activities and the nest so that nesting activities are not interrupted. CDFW recommends the buffer be a minimum width of 300 feet (500 feet for raptors) and be delineated by temporary fencing. CDFW also recommends that the buffer be maintained for the duration of construction or until the nest is no longer active. Further, CDFW recommends that no project construction occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the project.
10. CDFW generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species. Studies have shown that these efforts are experimental in nature and largely unsuccessful. In CDFW's experience, avoiding impacts to the resources and habitat conservation methodologies have proven most successful to managing rare, threatened or endangered species.
11. Before conducting restoration or revegetation activities, develop a restoration/revegetation plan. We recommend that these plans be prepared by persons with expertise in southern California ecosystems and native plant revegetation techniques. We also recommend that each plan include, at a minimum: (a) the location of the mitigation site; (b) the plant species



to be used, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity.

Thank you for this opportunity to comment on the NOP. Questions regarding this letter and further coordination regarding these issues should be directed to Eric Weiss, Staff Environmental Scientist at (858) 467-4289 or [eric.weiss@wildlife.ca.gov](mailto:eric.weiss@wildlife.ca.gov).

Sincerely,



Edmund Pert  
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References:

California Department of Fish and Game, Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations Natural Communities, November 24, 2009:  
[http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/Protocols\\_for\\_Surveying\\_and\\_Evaluating\\_Impacts.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/Protocols_for_Surveying_and_Evaluating_Impacts.pdf)

Vyverber, Kris. California Department of Fish and Game, Review of Stream Processes and Forms in Dryland Watersheds. October, 2010.

California Department of Fish and Game, California Wildlife Habitat Relationships website:  
(<http://www.dfg.ca.gov/biogeodata>)

California Natural Diversity Database, website: <http://www.dfg.ca.gov/biogeodata>

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